

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE SIDE JURISDICTION  
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 52 OF 2017

Ganesh Ramkisan Bhutale

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. M. S. Mohite i/b Mr. Ajit M. Savagave Advocate for the Applicant.  
Mr. Deepak Thakare APP for the State.

**CORAM : SMT. SADHANA S. JADHAV, J.**  
**DATED : 11<sup>th</sup> JANUARY, 2017.**

**PC :**

1) Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 26 of 2015 registered at Uttan Sagari Police Station for offence punishable under sections 406, 420, 465, 467, 468, 471, 474, 504, 506 (2), 120 (B) r/w 34 of the Indian Penal Code.

2) It is the case of the prosecution that a private complaint was filed by Franco D'Silva before the Judicial Magistrate First Class, Thane against 5 persons including wife and mother of the Circle Officer i.e. supervising authority of the present applicant. It is alleged that they had purchased a land

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without following due procedure of Law. Present applicant being Talathi had not followed the rules contemplated under the Maharashtra Land Revenue Code by issuing a notice to proper persons. It is the allegation that notice was received in the name of dead person and it was shown that he has appeared before Talathi. Applicant had forwarded the same to the Circle Officer for taking proper action.

3) It is clear that applicant was not named in the complaint on the basis of which a direction under section 156 (3) of the Code of Criminal Procedure, 1973 was passed. Pursuant to the direction, crime no. 26 of 2015 is registered at Uttan Sagari Police Station.

4) The learned counsel for the applicant has vehemently submitted that applicant had no knowledge about the identity of the receiver of the notice and at the most he was negligent in not inquiring about the signature of the person who had signed in the name of a dead person.

5) Taking into consideration the facts of the case and the role attributed to the applicant, more particularly the fact that the purchaser and the accused in the complaint are wife and mother of the Circle Officer who has sanctioned the mutation, applicant deserves to be granted pre-arrest bail. However, it is made

clear that observations made herein above are restricted to an application under section 438 of the Code of Criminal Procedure, 1973 and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

**ORDER**

- (i) Application is allowed.
- (ii) In the event of arrest, applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.
- (iii) Applicant shall report to the concerned police station from 17<sup>th</sup> January to 20<sup>th</sup> January 2017 everyday between 5.00 p.m. to 7.00 p.m. and co-operate with the investigating agency to the best of his capacity.
- (iv) Application stands disposed of.

**(SMT. SADHANA S. JADHAV, J.)**